IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 547 of 1992

For Approval and Signature:

HON'BLE MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

C M BHATT

Versus

SUPERINTENDENT & CIVIL SURGEON

Appearance:

1. Special Civil Application No. 547 of 1992

MRS. SANGEETA PAHWA, Advocate

for MR PM THAKKAR for the Petitioner

M/S PATEL ADVOCATES for Respondent No. 1-2,4

MR MS RAO, AGP for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE R.K.ABICHANDANI

Date of decision: 10/10/2003

ORAL JUDGEMENT

#. The petitioner who is serving as a Nurse in the Civil

Hospital, Amreli, challenges the order dated 15th October, 1991 at Annexure:F to the petition, seeking a direction to permit her to sign the muster roll, fix her working hours during day time and assign her light duty, release all her outstanding arrears and medical bills, and repay the deduction made in the salary.

#. According to the petitioner, she had challenged the orders of her transfers to Navlakhi and Lathi by way of representations made to respondent no. 4 and the transfer orders came to be cancelled on 22.3.1983. However, an attempt was made again to transfer her, but that order was stayed and she continued to serve in the Civil Hospital, Amreli. The petitioner was suffering from bronchial asthma and was being harassed by her superiors out of vengeance in view of her getting the orders of the State Government on 22.3.1983, cancelling her transfer, and issuance of instructions that the employees who were at that station for longer duration should be transferred first. She narrated the instances of her harassment, pointing out that even her medical bills were withheld, and her duty hours were abruptly being changed, and that she was not allowed to sign the muster roll.

#. It appears that while issuing Rule on the petition on 20th February, 1992, by a detailed interim order, interim relief was granted in favour of the petitioner in terms of para-21(C)(i) and (ii) of the petition, and the respondents were directed to decide the issues covered by the prayer clauses 21(C)(iii) and (v) of the petition, and make payment accordingly within two months from the date of the order. As recorded in para-6 of the interim order, a cheque of Rs. 4348/- was handed over to the counsel for the petitioner, which payment was accepted without prejudice to the rights and contentions of the respective parties.

#. As per the interim relief granted in terms of para-21(C)(i) and (ii), the authorities were directed to allow her to sign the muster roll and discharge her duties and fix working hours during the day time. No further grievance is forthcoming as regards those two items and it appears that those directions are complied with and to that extent, the grievance of the petitioner now does not survive.

#. As regards the interim relief in terms of para-21(C)(iii) & (v) regarding release of her outstanding arrears and repaying the deduction made in the salary, it now appears that the order regularizing

her leave has been made on 4th April, 2003. From the said order, which is placed on record, it appears that the period from 10th June, 1991 upto 4th March, 1992, of 269 days, is regularized as "leave without salary". The period from 15.1.91 upto 9.6.91, of 146 days, is regularized as "leave on half salary". It is obvious that only on regularisation of her absence could, now, the arrears be worked out. The learned counsel for the petitioner states that the order dated 4th April, 2003 includes the period regularized as "period without salary" even for the days on which the petitioner was not allowed to sign the muster roll. That issue is not the subject matter of the present petition, because, the order dated 4th April, 2003 is not under scrutiny by this Court, and in the present proceedings the said order has not been challenged. It will be for the petitioner to question the correctness of that order by appropriate proceedings as may be admissible under the law if she is aggrieved. The fact remains that it is only after making of this order, was it possible for the respondent-authorities to work out the amounts, if any, that may be payable to the petitioner by way of arrears or other claims. Needless to say that if any amount is payable to the petitioner towards her outstanding medical bills, the concerned authority will examine those bills and make payments expeditiously of the amounts that may be due.

#. It is accordingly directed that the concerned respondent-authority will ascertain the dues of the petitioner which are claimed under the various heads in this petition, including the medical bills, and if any amount is found to be due and payable to the petitioner as per the Rules and terms and conditions of her service, such amount will be worked out and be paid to the petitioner within two months from today. Rule is made absolute accordingly with no order as to costs.

[R.K. ABICHANDANI, J.]
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